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REMARKS

Status of the Claims

In the Office Action mailed March 18, 2002, claims 4-7, 11 and 12 were noted as pending in the application. Claims 4 and 5 were allowed. Claims 6-7 and 11-12 were rejected. An amendment to the Office action, which was submitted on April 29, 2002, but not acknowledged to have been filed until after abandonment, added new claim 13, which includes the limitations of claim 7, and claims 6 and 1, from which claim 7 depends. Claim 13 was renumbered as claim 23 by the Advisory Action of April 28, 2004. This subject matter had been deemed allowable by the Examiner if rewritten in independent form to include the limitations of claims 1 and 6-7. Accordingly, upon the grant of the petition under 37 C.F.R. §132(b), claims 4-7 and 11-12 are pending in the application. By this Amendment, claims 6-7 and 11-12 are canceled, claims 4-5 are amended and claim 23 is added. Accordingly, claims 4-5 and 23 are pending.

Rejection of claims 23 under 35 U.S.C. §112.

On the continuation sheet of the Advisory Action, examiner asserted that claim 13, as presented in the amendment filed (but not entered) on April 29, 2002, raised new issues because of inadequate description of the correspondence between the four flow rates and the three thresholds claims in the claim. Furthermore, Examiner asserted that the terms "the particular service flow," the data packet flow rate," and "the current buffer depth" lacked antecedent basis.

Since the amendment of April 29, 2002, was not entered, the wording of claim 23 is presented herein as "New" and has been drafted to address the 35 U.S.C. §112 second paragraph concerns raised by Examiner. Correspondence between the flow rates and the thresholds is described at page 10, line 19 – page 11, line 9, where reference is made to FIG. 3. The claims have been reworded so that support for the correspondence between the flow rates and the thresholds is more easily determined. Claim 23 has also been reworded to address the Examiners antecedent basis concern. Similar wording in claims 4 and 5 are amended by this Amendment for consistency. Therefore, since the concerns raised in the Advisory Action have been addressed and claims 4 and 5 were previously

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allowed, with no concern raised in reference thereto in the Advisory Action, pending claims 4-5 and 13 are in condition for allowance.

SUMMARY

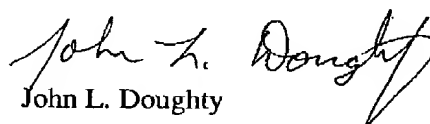
For all the reasons advanced above, Applicant respectfully submits that the application is in condition for allowance and that action is earnestly solicited.

If the Examiner believes that there are any issues that can be resolved by a telephone conference, or that there are any informalities that can be corrected by an Examiner's amendment please contact the undersigned at the mailing address, telephone, facsimile number or e-mail address indicated below.

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Respectfully submitted,

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